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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,310

04/07/2006

Anthony Chan

19525/102/101

3630

5909

7590

08/25/2009

NAWROCKI, ROONEY & SIVERTSON  
SUITE 401, BROADWAY PLACE EAST  
3433 BROADWAY STREET NORTHEAST  
MINNEAPOLIS, MN 554133009

EXAMINER

NIESZ, JASON KAROL

ART UNIT

PAPER NUMBER

3751

MAIL DATE

DELIVERY MODE

08/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/530,310	<b>Applicant(s)</b> CHAN ET AL.	
	<b>Examiner</b> JASON K. NIESZ	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) 7-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/02/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 07/02/2008 was considered by the examiner.

### ***Claim Objections***

2. Claim 12 is objected to because of the following informalities: At part g, line 1 gas sensor is misspelled as gap sensor. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kefikon (CH 676951 A5) (Provided by Applicant) in view of Palmer et al. (US Patent 4,624,390) (Provided by Applicant).
5. In Re claim 1 with reference to Figure 1 Kefikon discloses an appliance for refueling gaseous fuel motor vehicles comprising: a housing (1) containing a motor/compressor (10, 20) assembly in the form of an electric motor (20) and a compressor 10 contained in a common sealed casing (8), an electrical connection to supply power to the motor (inherent), A gas inlet (12), a gas outlet (13) and monitoring and control elements (29).

Kefikon doesn't disclose a multi-stage compressor or a means to allow the appliance to be mounted on an upright support.

Multi-stage compressors were old and well known in the art at the time the invention was made.

With reference to Figure 1 Palmer discloses a fueling apparatus (10) mounted to an upright support (12) through the use a square tube (16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the Kefikon compressor a multi-state compressor, in order to more efficiently provide a higher pressure fuel. Furthermore, it would have been obvious to mount the Kefikon apparatus on an upright support with the help of a square tube, as taught by Palmer, in order to allow other objects to be stored beneath it, and to protect it from vehicle collision.

In Re claim 2 with reference to Figure 1 Kefikon discloses vibration isolation means (21).

In Re claim 3 with reference to Figure 1 Kefikon discloses first (21) and second (25) vibration isolation means between the motor assembly and the support of the combined Kefikon in view of Palmer apparatus.

In Re claim 4 with reference to Figure 1 Kefikon discloses vibration isolating motor mounts (21), but does not disclose polymeric mounts. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use polymeric motor mounts, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its

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suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

In Re claim 5 with reference to Figure 1 Kefikon discloses damper means (24).

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kefikon in view of Palmer in further view of Heflin et al. (US Patent 5,221,192).

In Re claim 6 Kefikon in view of Palmer as applied to claim 3 above discloses all the limitations, but doesn't disclose flexible polymeric washers. Kefikon is silent as to the exact nature of the second vibration isolation means. With reference to Figure 2 Heflin discloses a flexible washer (18) which serves as a compressor mount. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Kefikon apparatus by using the flexible washers from Heflin, in order to isolate the compressor vibrations from the outer housing. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use polymeric washers, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

7. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kefikon in view of Palmer and in further view of Burger (DE 19859423) (Provided by Applicant).

In Re claim 12 Kefikon in view of Palmer as applied to claim 1 above discloses all the limitations. With reference to Figure 1 Kefikon further discloses a ventilation system comprising a fan (19), an air inlet(14) and an air outlet (6). However, Kefikon doesn't disclose a flammable gas sensor.

With reference to Figure 1 Burger discloses a gaseous fuel dispenser having a flammable gas sensor (9) which shuts of the device in the presence of a gas leak.

Therefore, it would have been obvious to one of ordinary skill in the art to modify the Kefikon apparatus by adding a flammable gas sensor, in order to shut of the apparatus in the event of a leak. Furthermore, it would have been obvious to place said gas sensor by the air outlet, since gas leaked anywhere in the apparatus would be detected at that point.

In Re claim 13 with reference to Figure 1 Kefikon discloses a cowling (8).

#### ***Allowable Subject Matter***

8. Claims 7-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Double Patenting***

9. Claims 1, 2, 4, 5, 12 and 13 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4-6, 12 and 13 of U.S. Patent No. 7,011,118. Although the conflicting claims are not identical, they are not patentably distinct from each other because the '118 contains all the limitations claims in the instant application in addition to further limitations. Furthermore, although

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the '118 patent limits the claimed apparatus to being mounted 18 inches off the ground, whereas the instant application limits the apparatus to being mounted 36 inches off the ground, the determination of the proper mounting height lies within the capabilities of one of ordinary skill in the art.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Adler (US Patent 6,899,115) B1) discloses an apparatus for filling a motor vehicle with a gaseous fuel which uses a compressor having multiple stages to efficiently pressurize a fuel gas..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON K. NIESZ whose telephone number is (571)270-3920. The examiner can normally be reached on mon-fri 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason K Niesz  
Examiner  
Art Unit 3751

/Gregory L. Huson/  
Supervisory Patent Examiner, Art Unit 3751